

Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

Approved for use through xx/xx/200x. OMB 0651-00xx

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

006878.111800

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on \_\_\_\_\_

Signature \_\_\_\_\_

Typed or printed  
name \_\_\_\_\_

Application Number

09/919,456

Filed

July 31, 2001

First Named Inventor

George H. Butcher

Art Unit

3628

Examiner

Jennifer L. Liversedge

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

☒ attorney or agent of record.  
Registration number 32,938

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 \_\_\_\_\_

  
Signature

Barry J. Schindler

Typed or printed name

212-801-2244

Telephone number

March 15, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

☐ \*Total of \_\_\_\_\_ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

---

<b>Applicant(s):</b> George H. Butcher	<b>:</b>	<b>Group Art Unit:</b> 3628
<b>Serial No.:</b> 09/919,456	<b>:</b>	<b>Examiner:</b> Jennifer L. Liversedge
<b>Filed:</b> July 31, 2001	<b>:</b>	Attorney Docket No.: 006878.111800
<b>For:</b> METHOD OF STRUCTURING A CREDIT ENTAILING A FIXED PAYMENT COMPONENT AND A VARIABLE PAYMENT COMPONENT (AS AMENDED)	<b>:</b> <b>:</b>	

---

**PRE-APPEAL BRIEF REMARKS**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**INTRODUCTORY COMMENTS:**

These Pre-Appeal Brief Remarks are filed in connection with a Pre-Appeal Brief Request For Review (PTO/SB/33).

## **REMARKS:**

An Amendment After Final Action is being filed concurrently herewith.

As discussed in the Amendment After Final Action, entry of the Amendment After Final Action is respectfully requested under 37 CFR 1.116(b)(1) as: (I) cancelling a claim (i.e., claim 3 is cancelled in the Amendment After Final Action); and (II) complying with a requirement of form expressly set forth in the previous Office Action (i.e., replacing the phrase “including” with the phrase “consisting of” in claims 1, 9 and 10 – see page 2 of the September 19, 2006 Final Office Action).

Thus, after taking effect of the Amendment After Final Action, claims 1, 2, 4 and 6-10 are pending in the application.

The present review is requested because it is believed, *inter alia*, that: (1) the outstanding rejection of claims 1 and 2 under 35 U.S.C. §102(b) as allegedly being anticipated by “Poor Market Spurs New Approaches”, Kuntz, E.F., April 1984 Pensions & Investment Age (hereinafter “P&I”) is improper; and (2) that the outstanding rejection of claims 4 and 6-10 under 35 U.S.C. §103(a) as allegedly being unpatentable over P&I in view of U.S. Publication No. 2002/0184129 in the name of Arena et al. (hereinafter “Arena et al.”) is improper.

While a detailed analysis directed to the claims of the present application and the cited references is currently of record (see, e.g., pages 6-8 of Applicant’s paper filed July 12, 2006, entitled “AMENDMENT IN RESPONSE TO FEBRUARY 13, 2006 OFFICE ACTION”), a concise summary is presented below.

More particularly, it is noted initially that the present invention, as recited in independent claim 1, relates to a computer implemented method of structuring a credit in which the credit issuer of a municipal bond is required to pay to the credit holder both a fixed payment component and an additional variable payment component.

As best understood, the Examiner’s position is that this feature is shown in the P&I reference at page 4, column 1, lines 16-33 and column 2, lines 2-29.

A review of these cited passages was undertaken. It appears that while the disclosure thereof relates in general to fixed interest rates and variable interest rates, the cited disclosure does not discuss the explicitly claimed feature directed to requiring the credit issuer of a municipal bond to pay to the credit holder both a fixed payment component and an additional variable payment component.

In fact, as seen at page 4, column 2, lines 2-29, this reference actually teaches away from such feature because the reference specifically discusses use of either variable rates or fixed rates.

Similarly, independent claim 4 substantially tracks independent claim 1 with regard to the

payment components (that is, independent claim 4 includes the feature requiring the credit issuer to pay both a fixed payment component and an additional variable payment component).

In view of the above, it is respectfully requested that the Panel issue a decision that the application is allowed on the existing claims.

Respectfully submitted,  
GREENBERG TRAURIG, LLP

Dated: March 15, 2007

By: /Matthew B. Tropper/  
Matthew B. Tropper  
Registration No. 37,457

Mailing Address:  
GREENBERG TRAURIG, LLP  
MetLife Building  
200 Park Avenue  
New York, NY 10166  
Telephone: (212) 801-2100  
Facsimile: (212) 801-6400